

24 Hilltop Ave, Jefferson, MA 01522

Date: 06/23/2011

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

To Whom It May Concern:

This letter is to file an appeal related to FCC Order DA 09-2244.

On 4/9/2011 I received a certified mail containing Demand Payment Letter for services performed in 1998 while employed at Drahthaus Residential Networking. Eagle Hill School, the funding recipient, had appealed a ruling for funds determined not to be eligible. Though I was the contact still on record for Drahthaus Residential Networking, Inc., the company was dissolved in 2003 and all assets liquidated and any service and communication with Eagle Hill School ceased. As a result of the communications and instruction from FCC representatives, I have submitted USAC Deactivation filings to formally remove Drahthaus Residential Networking, Inc. as a Service Provider.

Since receiving the Demand Payment Letter on 4/9/2011, I have been working to resolve and was finally told to file a formal appeal. Below is a history of my communications to support the filing.

4/9/2011 Saturday	First Demand Payment Letter received
4/11/2011 Monday	I called the SLD Client Service phone number on the Demand Payment Letter and spoke to a representative, Erin and a case was opened #22-212034. Later that day her superior called me back and informed me I would need to contact the FCC directly. She sent me an email with FCC contact information - her subject line included: CIMS00003060172 - FCC Consumer Center response from representative CTR10
4/11/2011 Monday	I called the FCC phone number provided and was given a contact name of Kesha Woodward at 202-418-1502. I reached only her voice mail and left a message. Between 4/11/2011 and 4/25 I called 2 more times and finally heard back from her Monday 4/21 when she provided another FCC contact James Bachtell.
4/21/2011 Thursday	I called James Bachtell at 202-418-2694 and explained the situation. He asked for me to send him an email explaining the history and a copy of the letter I had received.
4/25/2011 Monday	Email delivered to James Bachtell after first attempt was returned due to a typo.

5/5/2011 Thursday I sent a follow up email to James Bachtell since I had not heard from him. He called back and we spoke on the phone. He asked for formal records indicating Drahthaus Residential Networking was no longer in business. I forwarded him records from the Massachusetts Corporate Divisions web site with dates and links for the Corporate Dissolution in 2003.

5/11/2011 Wednesday I received a second Demand Payment Letter: Second Request letter. I did not see until Saturday due to out of town travel for work.

5/15/2011 Sunday I sent email to James Bachtell informing him I received second letter and asked for guidance.

5/16/2011 Monday James Bachtell acknowledged email and said he was contacting USAC for instruction.

5/16/2011 Monday I was contacted by Leslie Frelow after the case was handed off to her from James Bachtell. I sent her an email reviewing the timeline of events around the work performed and my separation from the business.

5/23/2011 Monday I contacted Leslie Frelow by email since I had not had any follow up since original contact.

5/24/2011 Tuesday Leslie Frelow replied by email informing me not to take any more action while she reviewed internally. She indicated my situation was unique had there was not history of a similar circumstance. She was waiting for internal guidance on how to handle the situation.

6/13/2011 Monday Leslie Frelow replied by email informing me USAC must continue with the recovery action. She informed me she and her department did not have authority to stop the recovery actions.
NOTE: I did not read her email until 6/22/2011 due to email spam filter sending to quarantine.

6/22/2011 Wednesday I called Leslie Frelow and left a voice mail in response to her email and asked for guidance.

6/23/2011 Thursday I was contacted by Roger Brand after the case was handed off to him by Leslie Frelow. We reviewed the circumstances again and he instructed me the only recourse was to file an appeal with the FCC. He also informed me Drahthaus Residential Network, Inc. was still on record as a Service Provider and instructed me to submit a Deactivation filing. He also provided some history I had not had visibility to over the past 10 years with Eagle Hill School's appeal that resulted in the Demand Payment Letter that I received. I have since found the ruling documentation for FCC Order DA 09-2244 with links Roger Brand provided.

Attached are supporting documents for the appeal:

1. Copy of Demand Payment Letter
2. Email communication records with USAC and FCC representatives
3. Copy of Articles of Dissolution for Drahthaus Residential Networking, Inc.
4. Copy of FCC finding document DA 09-2244

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Riach". The signature is fluid and cursive, with the first name "Brian" written in a larger, more prominent script than the last name "Riach".

Brian Riach
24 Hilltop Avenue
Jefferson, MA 01522
508-425-6320

Demand Payment Letter

(Funding Year 1998: July 1, 1998 - June 30, 1999)

April 5, 2011

Brian Riach
Drahthaus Residential Networking, Inc.
24 Hilltop Avenue
Jefferson, MA 01522

Re:	SPIN:	143008855
	Service Provider Name:	Drahthaus Residential Networking, Inc.
	Form 471 Application Number:	84941
	Funding Year:	1998
	FCC Registration Number:	0012462552
	Applicant Name:	EAGLE HILL SCHOOL
	Billed Entity Number:	90
	Applicant Contact Person:	CHRIS HYNES
	Payment Due By:	May 5, 2011

On January 5, 2001, you were sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds from you for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter. A copy of that Report is also attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

If the Universal Service Administrative Company (USAC) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Funding Commitment Adjustment Explanation on the Funding Commitment Adjustment Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with the applicant to determine who will be repaying the debt to avoid duplicate payment. Please note, however, that

the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full Funds to be "Recovered from Service Provider" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Bank of America
c/o Universal Service Administrative Company (105056)
1075 Loop Road
Atlanta, GA 30337
Phone 404-209-6377

If you are located in the Atlanta area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
P.O. Box 105056
Atlanta, GA 30348-5056
Phone 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter. Complete Program information is posted to the SLD section of the USAC website at www.usac.org/sl/. You may also contact the SLD Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: CHRIS HYNES
EAGLE HILL SCHOOL

Lisa Gaskil
EAGLE HILL SCHOOL

**Funding Commitment Adjustment Report
for Form 471 Application Number: 84941**

Funding Request Number:	85128
Contract Number:	I
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$519,779.70
Commitment Adjustment Amount:	\$161,146.82
Adjusted Funding Commitment:	\$358,632.88
Funds Disbursed to Date:	\$436,062.43
Funds to be Recovered from Service Provider:	\$77,429.55

Funding Commitment Adjustment Explanation:

The Federal Communications Commission (FCC) denied your appeal of FCC Form 471 application(84941) in the FCC Order DA 09-2244 released on October 29, 2009. Since your appeal was denied, USAC must continue recovery of improperly disbursed funds for the locations that were not eligible to receive service.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

CIMS00003060172 - FCC Consumer Center response from representative CTR10

From: **FCCInfo@fcc.gov**
Sent: Mon 4/11/11 4:22 PM
To: flug6@hotmail.com
1 attachment
USFSCHOOLS.PDF (148.1 KB)

You are receiving this email in response to your inquiry to the FCC.

This e-mail contains an attachment that is in ".pdf" format. If you are unable to open this attachment, it is most likely because your computer doesn't have Adobe Reader, which is the program needed to open these types of files. You can install a free copy of Adobe Reader from the Adobe Web site at <http://www.adobe.com/products/acrobat/readstep2.html>.

Mailout Attachment Name : USFSCHOOLS.PDF (see attachment <USFSCHOOLS.PDF>)
Representative Number : CTR10

RE: USAC letter - Brian Riach

From: **Leslie Frelow** (lfullwood@usac.org)
Sent: Mon 6/13/11 5:38 PM
To: Brian Riach (flug6@hotmail.com); james.bachtell@fcc.gov (james.bachtell@fcc.gov)

Hello Brian:

Thank you for your patience while I researched this issue. USAC must continue the recovery action. We don't have the authority to stop recovery actions when a Program rule violation occurred. We are unable stop recovery actions regardless of the circumstances. You may appeal the recovery action to the FCC during this stage (USAC COMAD). Collections will be suspended while the FCC reviews the appeal. The FCC may make the determination to dismiss recovery.

USAC will transfer the debt to the US Treasury Department if you don't satisfy the debt within the COMAD time period. Once this occurs, you will have to work directly with the US Treasury to resolve the issue.

If you have any questions, please don't hesitate to contact me.

L -

From: Brian Riach [mailto:flug6@hotmail.com]
Sent: Monday, May 23, 2011 12:49 PM
To: Leslie Frelow; james.bachtell@fcc.gov
Subject: RE: USAC letter - Brian Riach

Hi Leslie

I left a voice mail but thought I'd follow up with a quick email also. I didn't hear back since we exchanged emails and wanted see if there was anything more I should do.

Thanks

Brian

From: lfullwood@usac.org

To: flug6@hotmail.com; james.bachtell@fcc.gov
Date: Tue, 17 May 2011 10:24:27 -0400
Subject: RE: USAC letter - Brian Riach

Brian,

Thank you for the email. Let me take a look at this and I will follow-up with you shortly.

From: Brian Riach [mailto:flug6@hotmail.com]
Sent: Monday, May 16, 2011 10:28 PM
To: james.bachtell@fcc.gov; Leslie Frelow
Subject: RE: USAC letter - Brian Riach

Leslie

Thanks for calling back - sorry I missed you.

Back in 1998 when we did the work for Eagle Hill School I was a partner at Drahtaus Networking. After the Dot Com bust we lost many of our customers and vendor partners and were forced to shut down business and any remaining assets were liquidated. I accepted a position with an entirely different company in 2002 and have been employed in healthcare IT since.

I hope this helps. I will be at a customer most of the day Tuesday, but call when you can and I will try to break away to talk. If I can't please leave a message and I'll call back as soon as I'm able to.

Thanks for the help
Brian Riach
978-430-1531

Subject: RE: USAC letter - Brian Riach
Date: Mon, 16 May 2011 09:57:30 -0400
From: james.bachtell@fcc.gov
To: flug6@hotmail.com

I'm asking USAC again. Thanks.

*** Non-Public: For Internal Use Only ***

From: Brian Riach [mailto:flug6@hotmail.com]

Sent: Sunday, May 15, 2011 5:31 PM

To: James Bachtell

Subject: RE: USAC letter - Brian Riach

James

I was out of town for work last week and had another letter arrive that I saw this weekend. Is there someone else I should follow up with? I've attached so you can see.

Thanks again for all the help

Brian

Subject: RE: USAC letter - Brian Riach

Date: Thu, 5 May 2011 15:39:56 -0400

From: james.bachtell@fcc.gov

To: flug6@hotmail.com

Great. Thanks Brian.

*** Non-Public: For Internal Use Only ***

From: Brian Riach [mailto:flug6@hotmail.com]

Sent: Thursday, May 05, 2011 3:38 PM

To: James Bachtell

Subject: RE: USAC letter - Brian Riach

James

I was able to find the corporate files list for Drahthaus on the Massachusetts businesses web site. It has the Dissolution filing dated from 2003. If there is anything else let me know.

Thanks again for the help

Brian

Subject: RE: USAC letter - Brian Riach
Date: Thu, 5 May 2011 12:54:15 -0400
From: james.bachtell@fcc.gov
To: flug6@hotmail.com

[Just tried to call you. I'm at 202.418.2694. Thanks.](#)

*** Non-Public: For Internal Use Only ***

From: Brian Riach [mailto:flug6@hotmail.com]
Sent: Thursday, May 05, 2011 12:48 PM
To: James Bachtell
Subject: RE: USAC letter - Brian Riach
Importance: High

James

I wanted to follow up and confirm there is no further action I need to take. Today was the deadline given in the letter I received.

Thanks

Brian

Subject: RE: USAC letter - Brian Riach
Date: Mon, 25 Apr 2011 15:37:35 -0400
From: james.bachtell@fcc.gov
To: flug6@hotmail.com

[Thanks Brian. Got it.](#)

*** Non-Public: For Internal Use Only ***

From: Brian Riach [mailto:flug6@hotmail.com]

Sent: Monday, April 25, 2011 3:37 PM

To: James Bachtell

Subject: FW: USAC letter - Brian Riach

James

Sending again - typo in your last name on the first message. Can you confirm when you receive?

Thanks

Brian

From: flug6@hotmail.com

To: james.bechtell@fcc.gov

Subject: USAC letter - Brian Riach

Date: Thu, 21 Apr 2011 16:33:18 -0400

James

Thanks for the time today. Attached is the letter I received a couple weeks ago. I called the USAC contact number and they opened a case - # 22-212034. After reviewing with two representatives there they said they would not be able to help since it was in reference to an FCC appeal that they don't have access to. I called a number for the FCC they gave me and was given Kesha Woodward's number. I first called her last Monday 11th and couple times since, but just heard back from her today - when she forwarded me to you.

It refers to a project I was involved with at a past employer, DrahtHaus Networking, in 1998. The company went out of business at the end of 2002 and I have since moved on with my career. I haven't had any contact with the school in probably 10 years either.

I appreciate your help. I have been trying to resolve because of the urgency of the letter.

Thanks

Brian Riach

978-430-1531

Drahthaus Residential Networking, Inc.

From: **Brand, Roger** (RBRAND@sl.universalservice.org)
Sent: Thu 6/23/11 3:31 PM
To: flug6@hotmail.com
Cc: Leslie Frelow (lfullwood@usac.org)

Brian Riach,

As discussed today, subject Service Provider (Service Provider Identification Number 143008855) is indicated as active with USAC (and you are listed as the Contact Name). You may choose to update the status of Drahthaus at <http://www.universalservice.org/fund-administration/recipients/obtain-service-provider-id/revise-service-provider-id.aspx> or call Toll Free: (888) 641-8722.

Also: if you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau.

Thanks,

Roger Brand

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[Signature]
Examiner

FEDERAL IDENTIFICATION
NO. 043394381

The Commonwealth of Massachusetts
William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

#091

ARTICLES OF DISSOLUTION
(General Laws, Chapter 156B, Section 100)

We, Brian E. Riach, *President / ~~*Vice President~~,
and Allen S. Borseth, *Clerk / ~~*Assistant Clerk~~,
of Drahthaus Residential Networking, Inc.,
(Exact name of corporation)
located at: 24 Hilltop Avenue, Jefferson MA 01522
(Street address of corporation in Massachusetts)

certify as follows:

1. The name and post office address of each director and officer of the corporation is:

	NAME	POST OFFICE ADDRESS
President:	Brian E. Riach	24 Hilltop Avenue, Jefferson MA 01522
Treasurer:	Allen S. Borseth	Pilgrim Drive, Holden MA 01520
Clerk:	Allen S. Borseth	Pilgrim Drive, Holden MA 01520
Directors:	Brian E. Riach	24 Hilltop Avenue, Jefferson MA 01522
	Allen S. Borseth	Pilgrim Drive, Holden MA 01520
	Laura M. Riach	24 Hilltop Avenue, Jefferson MA 01522

10/21/97

2. On November 1st, 20 03, the dissolution of the corporation was duly authorized in the manner required by General Laws, Chapter 156B, Section 100, and notice of the proposed dissolution was duly given to the Commissioner of Revenue as required by said section.

3. The effective date of dissolution of the corporation shall be the date approved and filed by the Secretary of the Commonwealth. If a *later* effective date is desired, specify such date which shall not be more than *thirty days* after the date of filing.

**4. Other provisions deemed necessary by the corporation for its dissolution.

None

SIGNED UNDER THE PENALTIES OF PERJURY, this 15th day of November, 20 03,

Ben Zik, *President / *Vice President,
Alan B. Smith, *Clerk / *Assistant Clerk

*Delete the inapplicable words.

**If there are no such provisions, state "None".

Note: Provisions for which the space provided above is not sufficient should be made on one side of separate 8 1/2 x 11 sheets of white paper, numbered 2A, 2B, etc., with a left margin of at least 1 inch.

863673 *1284*

THE COMMONWEALTH OF MASSACHUSETTS

ARTICLES OF DISSOLUTION
(General Laws, Chapter 156B, Section 100)

I hereby approve the within Articles of Dissolution and, the filing fee in the amount of \$ 100.00 having been paid, said application is deemed to have been filed with me this 15 day of November, 20 03.

Effective date: November 1st 2003

William Francis Galvin

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

RECEIVED
DEC 15 2003
SECRETARY OF THE COMMONWEALTH
CORPORATIONS DIVISION

TO BE FILLED IN BY CORPORATION

Contact information:

Brian Riach
24 Hilltop Avenue
Jefferson, MA 01522
Telephone: (508) 829-8942
Email: brianr@draht haus.com

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Review of the)	
Decisions of the)	
Universal Service Administrator by)	
)	
Eagle Hill School)	File No. SLD-84941
Hardwick, Massachusetts)	
)	
Italian Home for Children)	File No. SLD-558248
Jamaica Plain, Massachusetts)	
)	
Rural Alaska Community Action Program, Inc.)	File Nos. SLD-451855, 501948
Anchorage, Alaska)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: October 20, 2009

Released: October 20, 2009

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order we deny requests for review filed by Eagle Hill School (Eagle Hill), Italian Home for Children (Italian Home), and Rural Alaska Community Action Program (Rural Alaska) of decisions by the Universal Service Administrative Company (USAC) concerning the schools and libraries universal service support mechanism (also known as the E-rate program).¹ We uphold USAC's decisions

¹ In this order we use the term "appeal" generically to refer to requests for review of decisions issued by USAC. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c). *See* Letter from Margaret Hurley, on behalf of Eagle Hill School, to Federal Communications Commission, CC Docket No. 02-6 (filed Apr. 18, 2001) (Eagle Hill Request for Review); Letter from Ross Wheadon, on behalf of Italian Home for Children, to Federal Communications Commission, CC Docket No. 02-6 (filed Oct. 5, 2007) (Italian Home Request for Review); Letter from Diane Mathisen, Rural Alaska Community Action Program, Inc., to Federal Communications Commission, CC Docket No. 02-6 (filed July 13, 2006); Letter from Diane Mathisen, Rural Alaska Community Action Program, Inc., to Federal Communications Commission, CC Docket No. 02-6 (filed Dec. 12, 2006) (collectively, Rural Alaska Requests for Review).

denying funding to these applicants because the locations at issue were ineligible for support under the E-rate program.²

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ Only eligible applicants may seek support for eligible services.⁴ When USAC reviews an application and identifies an ineligible entity seeking support, it will deny funding for the requested service. Congress defined the scope of entities eligible for support as elementary and secondary schools, as defined by the Elementary and Secondary Education Act of 1965,⁵ and as libraries eligible for assistance from a state library administrative agency under the Library Services and Technology Act (LSTA).⁶ Both definitions rely on the standards set by each individual state.

3. Some internal connections within an eligible school or library may not be eligible for E-rate support. In the *Universal Service First Report and Order*, the Commission stated that “a given service is eligible for support as a component of the institution’s internal connections only if it is necessary to transport information all the way to individual classrooms.”⁷ The Commission elaborated on this policy in

² Letter from USAC, Schools and Libraries Division, to Chris Hynes, Eagle Hill School (dated Jan. 5, 2001) (Eagle Hill Commitment Adjustment (COMAD) Letter); Letter from USAC, Schools and Libraries Division, to Ross Wheadon, Italian Home for Children (dated Sept. 11, 2007) (Italian Home Funding Denial); Letter from USAC, Schools and Libraries Division, to Diane Mathisen, Rural Alaska Community Action Program, Inc. (dated May 10, 2006); Letter from USAC, Schools and Libraries Division, to Diane Mathisen, Rural Alaska Community Action Program, Inc. (dated Oct. 16, 2006) (collectively, Rural Alaska Appeal Decisions).

³ 47 C.F.R. §§ 54.501-503.

⁴ See 47 C.F.R. § 54.501(b)-(d); USAC website, Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) at 3-4 (FCC Form 471 Instructions) (explaining that only schools and libraries meeting statutory eligibility standards may apply for support for eligible services), http://www.universalservice.org/res/documents/sl/pdf/471i_fy05.pdf (last visited Oct. 20, 2009).

⁵ See 47 U.S.C. § 254(h)(7)(A). The definitions of elementary and secondary schools are the definitions of those terms created by each individual state. 20 U.S.C. § 7801(18), (38). Specifically, the term “elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under state law. The term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that the term does not include any education beyond grade 12. 20 U.S.C. § 7801(20), (38). In addition, the statute excludes schools that have endowments of more than \$50 million or operate for profit. See 47 U.S.C. § 254(h)(4).

⁶ See 47 U.S.C. § 254(h)(4). In addition, the library must have funding independent from any school, and may not operate as a for-profit business. 47 C.F.R. § 54.501(c). The LSTA states that a “library” may include a “private library or other special library, but only if the State ... determines that the library should be considered a library for the purposes” of the LSTA. 20 U.S.C. § 9122(1)(E).

⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9017-18, 9021 at para. 459 (1997) (*Universal Service First Report and Order*) (subsequent history omitted); see also *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318, 5440 at para. 209 (1997) (*Universal Service Fourth Order on Reconsideration*).

the *Universal Service Fourth Order on Reconsideration*, explaining that E-rate support is “not available for internal connections in non-instructional buildings used by a school district unless those internal connections are essential for the effective transport of information within instructional buildings . . .”⁸ Consistent with these orders, internal connections to dormitory rooms have been found to be ineligible for support under the E-rate program.⁹ Specifically, in the *Anderson School Order* the Bureau stated that study centers in dormitories are neither traditional classrooms nor computer learning centers, and that the dormitory buildings at issue were physically separated from the classrooms and not necessary for the effective transport of information to the classrooms.¹⁰

4. *Eagle Hill Request for Review.* Although USAC initially approved Eagle Hill’s funding year 1998 request for internal connections to individual student dormitory rooms,¹¹ a subsequent review led USAC to find Eagle Hill ineligible for E-rate funding. Thus, USAC sought recovery of the \$77,430 it had disbursed to Eagle Hill for internal connections.¹² In its request for review, Eagle Hill states that it asked USAC whether E-rate program rules permitted discounts on internal connections for reaching dormitory rooms at its school, since its school serves children with learning disabilities and that structured study hall periods are held in the children’s dormitories for a minimum of two hours each night.¹³ Eagle Hill explained to USAC that, because students are required to be in their rooms during those periods and the regular dormitory counselor supervisors are joined by paid teachers, the dormitory rooms should be treated as classrooms for purposes of funding under the E-rate program.¹⁴ Eagle Hill further asserts that USAC informed Eagle Hill that Eagle Hill could argue that the dormitories are “acting” classrooms during the two hours per evening and, therefore, should be eligible for E-rate support.¹⁵

5. *Italian Home Request for Review.* During a routine Program Integrity Assurance review of Italian Home’s funding year 2007 request, USAC asked Italian Home what percentage of the dollars in

⁸ *Universal Service Fourth Order on Reconsideration*, 13 FCC Rcd at 5440, para. 210; see also 47 C.F.R. § 54.506.

⁹ *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612, paras. 6-7 (Com. Car. Bur. 2000) (*Anderson School Order*). The Common Carrier Bureau became the Wireline Competition Bureau in 2002 as part of organizational changes at the Commission. The term “Bureau” in this order refers to the Common Carrier Bureau prior to the change in 2002, and to the Wireline Competition Bureau after the change.

¹⁰ *Id.* at 25612, para. 6. In addition, pursuant to the Commission’s guidance on permissible funding for internal connections, E-rate funding has been denied for a teachers’ center, despite its occasional use for student classroom instruction. See *Request for Review of the Decision of the Universal Service Administrator by New York City Board of Education, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-200310, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 8578, 8581, para. 9 (Wireline Comp. Bur. 2002).

¹¹ See Letter from USAC, Schools and Libraries Division, to Chris Hynes, Eagle Hill School (Feb. 9, 1999).

¹² See Eagle Hill COMAD Letter.

¹³ See Email from EHSDevel@aol.com to Question@slcfund.org (dated Apr. 17, 1998).

¹⁴ *Id.*

¹⁵ See Email from Question@slcfund.org to EHSDevel@aol.com (dated Apr. 10, 1998). Specifically, the USAC employee directed Eagle Hill in the email to “indicate [its] unique situation as an attachment to” its FCC Form 471 application. *Id.* Based on the record, it does not appear that Eagle Hill provided such an attachment to its FCC Form 471.

its funding request were for telecommunications and Internet access services for dormitory or residence rooms.¹⁶ When Italian Home replied that 81 percent was associated with its four residential programs and 19 percent was associated with its day school program,¹⁷ USAC determined that the 81 percent associated with its residential programs was ineligible for E-rate program support and directed Italian Home to remove those expenses or explain why funding should be granted for those services.¹⁸ Italian Home responded that the Commonwealth of Massachusetts had deemed 100 percent of Italian Home as an educational facility, thus 100 percent of its services should be eligible for E-rate support.¹⁹ USAC, however, only granted Italian Home discounts on the 19 percent of the purchases associated with its day school program.²⁰ In its request for review, Italian Home asserts that its student population consists of emotionally disturbed and learning disabled children ages five to twelve who require 24-hour per day care.²¹ Italian Home acknowledges that it is primarily a residential facility and that the children in its four residential programs live in three separate buildings at two locations.²² Italian Home again contends, as it did in its response to USAC, that, because the Commonwealth of Massachusetts had deemed 100 percent of Italian Home as an educational facility, 100 percent of its services should be eligible for E-rate support.²³

6. *Rural Alaska Requests for Review.* USAC denied Rural Alaska's funding year 2005 and 2006 requests for E-rate discounts for its Head Start, pre-kindergarten programs after finding that the state of Alaska did not define its elementary and secondary schools to include pre-kindergarten entities, such as the Head Start programs.²⁴ In its request for review, Rural Alaska argues that the early education provided through its Head Start program is a vital part of elementary education in Alaska.²⁵ It does not, however,

¹⁶ Italian Home Request for Review, Attachment 3 (Letter from Sasha Tyndale, USAC, to Ross Wheadon, Italian Home for Children, at 1 (dated June 11, 2007)). USAC performs a Program Integrity Assurance review to verify that the discounts recipients seek are for eligible services, provided to eligible entities, and for eligible uses. See USAC website, Program Integrity Assurance, <http://www.sl.universalservice.org/reference/6pia.asp> (last visited Oct. 20, 2009).

¹⁷ Italian Home Request for Review, Attachment 4 (Letter from Ross Wheadon, Italian Home for Children, to Sasha Tyndale, USAC, at 1 (dated June 11, 2007) (Italian Home June 11 Letter)).

¹⁸ See Italian Home Request for Review, Attachment 5 (Letter from Sasha Tyndale, USAC, to Ross Wheadon, Italian Home for Children, at 1 (dated June 12, 2007)).

¹⁹ *Id.*, Attachment 6 (Letter from Ross Wheadon, Italian Home for Children, to Sasha Tyndale, USAC, at 1 (dated June 12, 2007) (Italian Home June 12 Letter)).

²⁰ See Italian Home Funding Denial.

²¹ See *id.*, Attachment 2 (Letter from Ross Wheadon, Italian Home for Children, to Sasha Tyndale, USAC, at 1 (dated June 6, 2007)).

²² *Id.*, Attachment 4 (Italian Home June 11 Letter).

²³ *Id.*, Attachment 6 (Italian Home June 12 Letter).

²⁴ See Rural Alaska Appeal Decisions at 2; see also USAC website, <http://www.usac.org/sl/applicants/step01/non-traditional-k-12/k-12-eligibility-table.aspx> (last visited Oct. 20, 2009).

²⁵ See Rural Alaska Requests for Review at 1.

address the specific issue of whether its programs, as determined by state law, are eligible for discounts under the E-rate program.²⁶

III. DISCUSSION

7. We deny the petitioners' requests for review and uphold USAC's decisions denying funding to these applicants because the locations at issue were ineligible for E-rate program support. As indicated above, consistent with the Commission's holdings with respect to internal connections funding, internal connections to student dormitory rooms have been found to be ineligible for E-rate support.²⁷ Thus, consistent with our precedent, we find that Eagle Hill's use of a dormitory room for tutoring for two hours a night does not qualify it to receive E-rate discounts for internal connections.²⁸ Similarly, Italian Home does not qualify for E-rate discounts for its residential facilities. Italian Home asserts that the Commonwealth of Massachusetts has held that its entire program is eligible for E-rate support.²⁹ Although Congress has delegated to the states discretion over which entities in the state provide primary or secondary education and are thus eligible to apply for support under the E-rate program,³⁰ the determination of which locations within a facility – classrooms or non-classroom locations – are eligible for support falls under the authority of the Commission.³¹ Thus, as discussed above, we find that the provision of discounted services for residential facilities is inconsistent with the Commission's E-rate rules.³² Accordingly, we deny Eagle Hill's and Italian Home's requests for review.

8. Rural Alaska misunderstands the criteria for eligibility, as explained above.³³ Although Rural Alaska asserts that early education provided by the Head Start program is a vital part of elementary education in Alaska, Head Start programs are only eligible in Alaska if the state defines elementary education to include these programs.³⁴ In its appeal decisions, USAC correctly observed that Alaska did not define elementary education to include Head Start programs.³⁵ Therefore, we affirm USAC's decision to deny E-rate program funding to Rural Alaska.

²⁶ See *supra* para. 2.

²⁷ See *supra* para. 3.

²⁸ We note that the Commission has previously concluded that "in certain limited instances, the use of telecommunications services offsite would . . . be integral, intermediate, and proximate to the education of students . . . and thus, would be considered to be an educational purpose." *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9208-09, paras. 17-19 (2003). We find, however, that providing service to dormitories in the manner described here is not one of those exceptional cases.

²⁹ See *supra* para. 5.

³⁰ See *supra* note 5.

³¹ See, e.g., *Universal Service Fourth Order on Reconsideration*, 13 FCC Rcd. at 5440, para. 209 (concerning the eligibility of non-instructional buildings).

³² See *supra* para. 3.

³³ See *supra* para. 2.

³⁴ *Id.*

³⁵ See Rural Alaska Appeal Decisions.

IV. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the requests for review filed by Eagle Hill School, Italian Home for Children, and Rural Alaska Community Action Program, Inc. ARE DENIED.

10. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau